

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FRANCIS DAVIS

Plaintiff,

- against -

LATIN UNO, INC.

Defendant.

Docket No. 1:18-cv-3359

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Francis Davis (“Davis” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant Latin Uno, Inc. (“Latin” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of seven copyrighted photographs of a couple in Puerto Rico, owned and registered by Davis, a professional photographer. Accordingly, Davis seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Davis is a professional photographer having a usual place of business at Calle Sol # 3, Rincon, Puerto Rico 00677.

6. Upon information and belief, Latin is a for profit corporation duly organized and existing under the laws of the State of Puerto Rico, with a place of business at 604 Ave Escorial Urb. Caparra Heights, San Juan PR 00920. At all times material, hereto, Latin has created a program called La Boda de Ellas: La Historia de un amor entre verso y prosa (the “Film”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. Davis photographed a couple in Puerto Rico for their wedding (the “Photographs”). True and correct copies of the Photographs are attached hereto as Exhibit A.

8. Davis is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

10. The Photographs were registered with the United States Copyright Office and were given registration number VAu 1-223-107.

B. Defendant’s Infringing Activities

11. Latin ran an article on the Film. The film prominently featured the Photographs. A true and correct copy of Photographs on the Film are attached hereto as Exhibit B.

12. Latin did not license the Photographs from Plaintiff for its article, nor did Latin have Plaintiff’s permission or consent to publish the Photographs on its Film.

CLAIM FOR RELIEF **(COPYRIGHT INFRINGEMENT AGAINST LATIN)** **(17 U.S.C. §§ 106, 501)**

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Latin infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs on the Film. Latin is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Latin have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to her attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Latin be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;

2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
June 8, 2018

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff Michael Davis